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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,301	09/26/2001	Myron K. Gordin	P04278US5	1091

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DES MOINES, IA 50309-2721

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/964,301

Applicant(s)

GORDIN ET AL.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 9,20,22,29 and 32-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-19,21,23-28,30,31 and 43-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## ***Part II DETAILED ACTION***

This office action is in response to applicant's amendment filed on September 23, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

1. Claims 9, 20, 22, 29, 32-42 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

### ***Claim Objections***

2. Claims 1-20 are objected to because of the following reasons:

Regards to claims 1-21, the recited language "a pole and base" (claim 1) and "the pole of claim 1" (claims 2-21) lack a same scope of the claimed invention. And, it is not clear whether applicant intends to claim "a system" or "a device" or "an apparatus". Clarification is required.

Regard to claim 1, the recited phrase "the lower end having an inside diameter generally matching the inside diameter of the upper section" (lines 9-10) does not appear consistent to the claimed invention. It appears should be read "the interior bore having an inside diameter generally matching the outside diameter of the upper section of the base". And, the recited phrase "said one or more cross arms" (line 11) lacks an antecedent basis. The phrase "adapted to position" (line 13) lacks to positively recite the relationship between elements of the claimed

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invention. And, it is not clear what does mean by the recited phrase “than the upper end of pole” (line 15).

Regard to claim 6, “the said portion” should read “said portion”.

***Claim Rejections - 35 USC § 102***

3. Claims 1, 4-6, 8, 10-14, 16-21, 23, 24, 26-28, and 43-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Beecker (US Patent No. 3,242,252).

Beecker show and teach a system for rigidly elevating array of pre-aimed light fixture in an elevated position, comprising a base (14) positioned in a desirable location in the ground at the site, said base (14) having a upper portion extending above the ground and a lower portion inserted into the ground, the upper portion of the base (14) being tapered to form a frusto-conically shaped upper portion, a pole (10) including a plurality of pole sections (16, 18, 20) each being made of hollow metal sheet and having a lower open end, each of the pole being tapered along its entire length and each being slip fitted over one and other to form one extended pole with a length substantially longer than a length of the base, wherein the lower pole section (16) has an inside diameter generally matching the outside diameter of the upper portion of the base such that the lower open end of the pole being slip-fitting over a portion of the upper portion of the base above but near the ground, the base inherently has a width and a length being related to the strength, the height and the weight of the pole such that the slip fit formed between the base and the pole locks the pole in place by a resilient and frictional locking, the locked pole is raised into vertical position by means of lifting machine and an oil pressure jack (see col. 3, line 42), and one or more cross arms (24, 26) are mounted on the upper section of the pole by a

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connection member (22), and an array of pre-aimed light fixture (28, 30) is mounted to the cross arm (24, 26) as claimed.

***Claim Rejections - 35 U.S.C. 103***

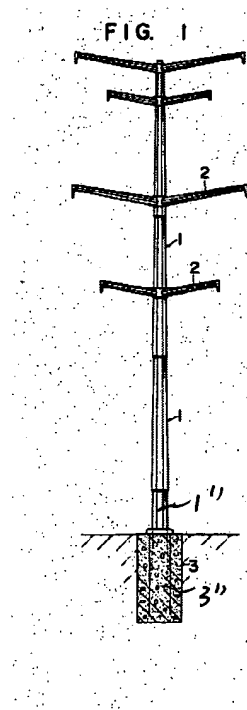
4. Claims 1, 4-6, 8, 10-19, 21, 23-24, 26-28, 30-31, and 43-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Okuto et al. '498 in view of Beecker '480.

Okuto et al. show and teach a system for rigidly elevating one structure (2) in an elevated position, comprising a base (3) positioned in a pre-excavated hole in the ground at the site, said base (3) having an upper portion (1") extending above the ground and a lower portion (3") inserted into the ground, a pole including a plurality of pole sections (1) each being made of hollow metal sheet and having a lower open end, each of the pole section (1) having total length being greater than the length of the base, each of the pole section being tapered along its entire length and each being slip fitted one over and other to form a single extended pole which inherently have a length greater than the length of the base (3), a sealant (12), during the assembling operation, being applied between the lower end of each pole section and the upper end of the lower pole section or to the upper section of the base for locking sections together, and the locked pole section being raised into vertical position by means of lifting machine and an oil pressure jack (see col. 3, line 42), wherein the lowest pole section is slip-fitted onto the upper portion of the base above the ground but generally near the ground, and one or more cross arms (2) are mounted on the upper section of the pole inherently by a connection member for carrying electrical elements such as conductors for transmitting high voltage currents. Although Okuto et al. does not define the pole structure having a plurality of array of pre-aimed light fixture

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mounted on the cross arms as claimed, Bercker teaches a pole structure having one or more cross arms (24, 26) mounted on an upper end of the pole to support a plurality of light fixtures (28, 30) thereon. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pole structure of Okuto et al. individually having an array of pre-aimed light fixtures being mounted to the cross arms as taught by Beecker for supporting various electrical features to illustrate in a height arrangement.

In regard to claims 30-31, wherein the lower section of the base (3) of Okuto et al. , as common engineering practice, is moved into a pre-excavated hole in the ground, and is fixed in the foundation after the remaining areas of the hole being filled with concrete material as claimed.



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5. Claims 1-8, 10-19, 21, 23-28, 30-31, and 43-46 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Centrecon, Inc. (applicant's prior art as shown in Figure 2) in view of Okuto et al. '498.

Centrecon, Inc., shows and teaches, a "steel and concrete combination lighting pole" for sports lighting applications (see module "SPORTSLINER II-50 or prior art Fig. 2), comprising a pole structure including a concrete base (30) having a cylindrical lower section (32) being inserted into the ground and an tapered upper section (36) extending outward from the ground, the lower section (32) being placed into a ground hole which is filled with concrete thereafter, a metal pole (34) having a lower open end including an interior bore, said interior bore extending axially and inwardly from the lower open end and having a generally tapered inside diameter being slip-fitting over at least a portion of the tapered upper section of the base, the pole being tapered along its entire length and having an elongated frusto-conical shape, wherein the matching portions of the tapered interior bore of pole and the tapered upper section of the base providing "slip-fitting" for positioning the pole onto the base above the ground, wherein the base includes reinforcing means inherently providing suitable strength, height, and weight for supporting the pole in a vertical position, and an upper section of the pole having a plurality of cross arms (18, 20) mounted on an upper end of the pole inherently by a connection member, and an array of pre-aimed light fixtures (22) being mounted on the cross arms as claimed.

Although Centrecon (or the prior art Fig. 2) does not show the pole structure having the length of the pole being substantially longer than the length of the base and the pole being positioned its lower open end of the pole section generally "several feet" near the ground such as claimed, to determine the distance of how "near" the pole is positioned above the ground would

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have been obvious matter of design choice as depend upon the constructions of the pole and the base to be selected. Further, Okuto et al. teaches a pole structure comprising a base having an upper section extending above the ground, and a pole having a lower open end fitting onto the upper section of the base above the ground but near the ground. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Lighting Pole of Centrecon (the prior art of the applicant's Figure 2) having the base with the upper section having a preselected length such as shorter than the length of the pole, and pole having predetermined diameter for stacking the pole slip-fitting over the upper portion of the base with the lower end above the ground with equal well distance which "near" the ground as taught by Okuto et al. for easily mounting and elevating the pole in an elevated position.

Regard to claims 7 and 15, adjusting of dimensions of the matching tapered sections of the base and the pole would have been accomplished as desired as to accommodate variety of applications.

Regard to claims 18 and 28, although Centrecon does not define the pole having a plurality of pole section being fitted sequentially one over another as claimed, Okuto et al. further teaches the pole structure being formed, as a common engineering practice, by a plurality of pole sections each having a tapered diameter being generally matching and slip-fitted one over and other. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the pole structure of Centrecon having more than one pole sections being sequentially fitted one over another as taught by Centrecon, as an old and well known method, for extending the length of the pole structure and reducing the weight of the pole to be easily transported and elevated.



Regard to claims 21, 23-27, 30, and 43-46, the pole structure as claimed would have been obvious assembled by the obvious steps as taught by Centrecon in view of Okuto et al. as discussed set forth above.

***Response to Arguments***

6. Applicant's arguments with respect to claim rejections under U.S.C. 102/103, and specifically to the newly combined features of "arrays of light fixtures mounted on cross arms" and "the length of the pole greater than the length of base" have been considered. These features were not specifically and previously claimed in claims 1, 21 and 43. Therefore, this argument is deemed to be moot in view of the new grounds of rejection.

7. Further, in response to applicant's argument that the reference to Okuto et al. fails to define the lower section of the pole being upper portion of the base is "slip fitted" by pole. However, Okuto et al. shows the pole structure having the base (3) having an upper section (1") which is also taped as pole sections (1). Since applicant does not claim the base must be a single piece of concrete member, the lower taped section (1") of Okuto et al. is considered to be the upper portion of the base which is taped and mateable with the taped lower section of the pole such that the pole can be "slip fitted" over base as claimed. Therefore, the rejection is still ground.

8. In response to applicant's argument that the reference to Okuto et al. teaches a "bolt-down system" which is not required by applicant's invention, it is not deemed persuasive because

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Okuto et al. clearly defines the lower section (4) of the upper pole section (1) "slip fitting" over the upper portion (5) of the lower pole section (1) to lock the pole sections one over another as claimed as claimed. Okuto et al. is used as a reference to teach the base of a pole structure would have a length shorter than the pole and having a sufficiency portion supporting the pole where the lower end of the pole being positioned above but near the ground as claimed. The fact that it discloses additional structure not claimed is irrelevant.

***ACTION IS FINAL***

9. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

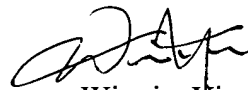
***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
November 28, 2003